



DRUG and ALCOHOL

49 CFR PART 40

49 CFR PART 199





DOT/PHMSA/OPS Office of Substance Abuse Policy, Investigations & Compliance



Substance Abuse Programs

49 CFR Part 199

Policy

Auditing

Investigations

Compliance

Regulation

Guidance

MIS Reporting

DAMIS DBA

49 CFR Part 40

Collaborative Policy

Auditing

Compliance



Part 40 – Drug & Alcohol Testing

Procedures for Transportation Workplace

General regulations for all parties who conduct drug and alcohol tests required by Department of Transportation (DOT) agency regulations how to conduct these tests and what procedures to use.



Part 40 – PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS (Effective October 1, 2010)

Has 18 Subparts

- Subpart A – Subpart R
- ...and its 101 pages long!
- Copies available at
www.dot.gov/ost/dapc



Part 199 – Drug & Alcohol Testing

Pipeline Safety Regulations Drug and Alcohol Testing

This part requires operators of pipeline facilities subject to part 192, 193, or 195 of this chapter to test covered employees for the presence of prohibited drugs and alcohol.

This part does not apply to master meter systems, or pipeline systems that transport only petroleum gas or petroleum gas/air mixtures.



Part 199 – Drug & Alcohol Testing

Has only 3 Subparts

- Subpart A – General
- Subpart B – Drug Testing
- Subpart C – Alcohol Misuse Prevention Program



Prohibited Drug

Prohibited drug means any of the following substances specified in Schedule I or Schedule II of the Controlled Substances Act (21 U.S.C. 812): marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).



DOT's Position on Medical Marijuana When Allowed by Any State Law

- A state adopting a “medical marijuana” statute is **not** a valid medical explanation for a pipeline covered employee’s positive drug test result
- Medical Review Officers (MRO) will **not** verify a drug test as negative based upon information that a physician recommended that the employee use “medical marijuana”
- Marijuana remains a drug listed under Schedule I of the Controlled Substances Act
- Contact PHMSA/OPS’ Office of Policy, Investigations and Compliance regarding the use of the only US FDA approved synthetic cannabinoid, Marinol (dronabinol)



6 Possible Test Reasons:

- Pre-employment tests
- Random
- Reasonable Suspicion/Reasonable Cause
- Post-Accident
- Return-to-Duty
- Follow-up



Four (4) inspection forms

- Comprehensive Anti-Drug Programs - 27 Pages
- Comprehensive Alcohol Misuse - 16 Pages
- Comprehensive Specimen Collection Site(s) - 9 Pages
- Comprehensive Alcohol Testing Site(s) - 9 Pages

The screenshot shows the PHMSA website interface. At the top, the PHMSA logo and name are displayed, along with navigation links for Careers, Contact Us, FAQs, and Site Map. A search bar is also present. Below the header, there are tabs for 'For the Public', 'Hazmat Safety Community', 'Pipeline Safety Community', 'Media | Congress', and 'Doing Business with PHMSA'. The 'Pipeline Safety Community' tab is selected. The main content area is titled 'Drug & Alcohol Inspection Forms' and lists several forms available for download in Word format. A sidebar on the left contains a list of links for various PHMSA services and resources. The URL 'http://www.phmsa.dot.gov/pipeline/drug/inspect' is displayed at the bottom right of the screenshot.

PHMSA
U.S. Department of Transportation
Pipeline and Hazardous Materials
Safety Administration

Careers | Contact Us | FAQs | Site Map

Go
Advanced Search

For the Public | Hazmat Safety Community | Pipeline Safety Community | Media | Congress | Doing Business with PHMSA

Home » Pipeline Safety Community » Regulations » Drug & Alcohol Testing » Inspection

Drug & Alcohol Inspection Forms

The following forms are provided in Word format and can be typed in or written on once printed.

Forms

- PHMSA OPS Specimen Collection Site Audit Protocol Form 3.1.7
- PHMSA OPS Alcohol Testing Site Audit Protocol Form 3.1.8
- PHMSA OPS Drug Program Audit Protocol Form 3.1.9
- PHMSA OPS Alcohol Misuse Audit Protocol Form 3.1.10
- Comprehensive Drug and Alcohol Program Audit Protocol Form 3.1.11

Drug & Alcohol Testing Menu

- Drug & Alcohol Regulations & Reporting
- Inspection Forms
- Interpretations & Guidance
- Contact Us

Home

<http://www.phmsa.dot.gov/pipeline/drug/inspect>



Overview

- **Changes to the Regulations**
- **Contractor MIS Reporting Initiative**
- **Identifying Multiple OpIDs in Operator MIS Reports**
- **New Comprehensive Protocol Audit Initiative**



Harmonization with HHS Mandatory Guidelines Final Rule Effective October 1, 2010

Testing laboratory requirements include:

- Testing for MDMA (aka. Ecstasy);
- Lowering cutoff levels for cocaine and amphetamines;
- Conducting mandatory initial testing for heroin;
- Propose bringing a number of DOT's testing definitions in-line with those of HHS



Harmonization with HHS Mandatory Guidelines Final Rule Effective October 1, 2010

Requirements for MROs and Specimen Collectors:

- Each Medical Review Officer (MRO) will need to be re-qualified – including passing an examination given by an MRO training organization - every five years. The Final Rule eliminated the requirement for each MRO to take 12 hours of continuing education every three years.
- An MRO will not need to be trained by an HHS-approved MRO training organization as long as the MRO meets DOT's qualification and requalification training requirements.
- Allow collectors to make decision for Direct Observation based on Part 40 requirements without requirement for prior supervisory approval



Updated U.S. DOT Custody and Control Form (CCF)

DOT published an interim final rule authorizing employers to use the new Federal Drug Testing Custody and Control Form beginning October 1, 2010. Old CCF forms cannot be used after **September 30, 2011.** The published rule covers the following:

- DOT made a few necessary regulation changes in order for collectors, laboratories, and Medical Review Officers to know how to use the new form.
- The DOT also made a technical amendment to its drug testing procedures.



Updated U.S. DOT Alcohol Testing Form (ATF)

While immediate use of the new ATF is authorized, its use was required by August 1, 2010, but has been extended to **January 1, 2011**. The new forms provide the following:

- New DOT form number;
- Additional instructions on the reverse side of page 3 of the ATF form; and
- The legends in the test result boxes on the front of the ATF were adjusted



Updated Management Information System (MIS) Data Collection Form:

A new MIS form is authorized for use in **2011 for reporting calendar year 2010 MIS data**. The only changes made are as follows:

- New DOT form number;
- MIS instructions changed “RSPA” to “PHMSA.”



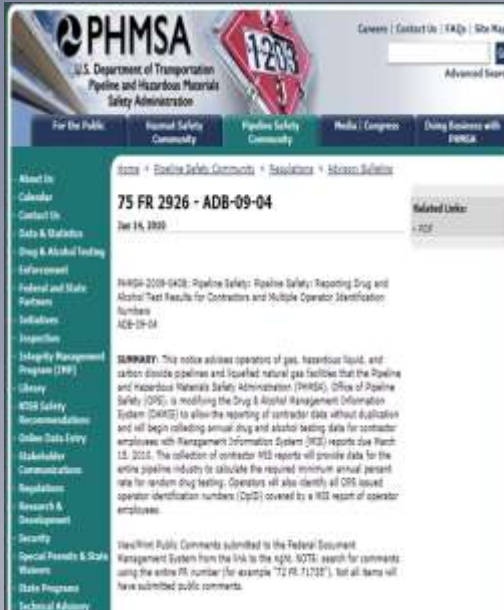
Public Interest Exclusion (PIE) Listing

Please be aware that the following service agent is **excluded** from providing drug and alcohol testing services in any capacity to any DOT-regulated employer **for a period of five (5) years beginning on November 17, 2009:**

- **Michael R. Bennett, Workplace Compliance, Inc.** in North Carolina, Texas, and all other places it is incorporated.



MIS Reporting Drug and Alcohol Test Results for Contractors



- Operator collection and submission of MIS reports for contractor “covered employees”
- 49 CFR Part 199 holds pipeline operators accountable for monitoring contractor compliance
- Contractors identified through their Business Tax Identification Number (BTIN)
- Federal Register Advisory Bulletin “ADB-09-04 - 75 FR 2926” was issued on Jan 14, 2010 to address this contractor MIS notification



MIS Reporting Drug and Alcohol Test Results for Operators with Multiple OpIDs



- Operators identify all OPS issued operator identification numbers (OpID) covered by a single MIS report
- Operators with either single or multiple OpIDs, must determine whether scheduled annual MIS reporting are required for submittal
- Federal Register Advisory Bulletin “ADB-09-04 - 75 FR 2926” was issued on Jan 14, 2010 to address this contractor MIS notification

- Management Information System (MIS) reports filed for CY 2009 by April of 2010 (Note: Extended from March 15th only for CY2009)
 - ✓ The verified positive random drug testing rate is less than 1%
 - ✓ The actual annual drug random testing is at 31.3% vs. 25% min.
 - ✓ Based on the above results, random drug testing rate remained at 25% for CY 2011
 - ✓ The confirmed BAC positive rate is less than 2% for the combined alcohol testing categories

PHMSA Pipeline Operators Positive Drug Rate Random Test Results From 2003 to 2007

Year	Positive Drug Rate (%)
2003 MIS Data Results	0.829 %
2004 MIS Data Results	0.764 %
2005 MIS Data Results	0.780 %
2006 MIS Data Results	0.596 %
2007 MIS Data Results	0.657 %



PHMSA D&A Auditing Program : Objective, Strategy, & Goal

Objective:

- Renew and significantly increase Federal and State focus on drug and alcohol program risk

Strategy:

- For the immediate future, focus heavily on operator and contractor compliance inspections and enforcement of our drug and alcohol program requirements

Goal:

- Assure ourselves that pipeline operators and contractors are fully complying with both PHMSA (i.e., Part 199) and US DOT (i.e., Part 40) requirements, and that the potential risks these requirements address are mitigated.



PHMSA Substance Abuse Auditing Program

Key Element:

- Verification of compliant D&A plans & policies

What is PHMSA looking for?

- Compliant written & implemented substance abuse plans & policies that meet Part 199 requirements
- Compliant drug or alcohol testing procedures and processes that meet Part 40 requirements
- Compliant process for handling employees with positive testing results
- Appropriate roles & responsibilities of service providers: Should never replace the Designated Employer Representative's (DER) intrinsic responsibilities



PHMSA Substance Abuse Auditing Program

Key Element:

- Post-accident testing requirements

What is PHMSA looking for?

- Defined reportable Part 191 or Part 195 accident/incident D&A testing process
- Documentation indicating meeting the 2 and 8 hour post-accident/incident alcohol testing milestones
- Documentation indicating meeting the 32 hour post-accident/incident drug testing milestones
- Justification and documentation as to why post-accident/incident D&A testing was not performed



PHMSA Substance Abuse Auditing Program

Key Element:

- Substance abuse random drug testing and on-suspicion alcohol testing

What is PHMSA looking for?

- Compliant random drug testing selection process
- Process for educating/communicating to covered employees regarding donor collection process for drug testing and breath analysis alcohol testing
- Assure random alcohol testing is precluded unless covered employees are part of FMCSA pool (e.g., CDL holders)



PHMSA Substance Abuse Auditing Program

Key Element:

- Supervisor training for recognizing substance abuse

What is PHMSA looking for?

- Documented supervisor training to recognize and assess substance abuse for on-suspicion drug and/or alcohol testing of covered employees
- Documentation for supervisors receiving at least 60-minutes of drug training and 60-minutes of alcohol training
- Keeping-up with knowledge of Employee Assistance Programs (EAP)



PHMSA Substance Abuse Auditing Program

Key Element:

- Employee Assistance Program (EAP) mandates

What is PHMSA looking for?

- Documentation indicating process for educating/communicating consequences of substance abuse and available EAP programs to covered employees
- Demonstrable example of company EAP “display and distribution” of informational materials, a community hot-line, and the company’s policy on illicit drug and alcohol use



Web Sites of Interest:

ODAPC Link:

<http://www.dot.gov/ost/dapc/index.html>

PHMSA Link:

<http://www.phmsa.dot.gov/pipeline/drug>

PHMSA Link:

***[http://www.phmsa.dot.gov/pipeline/regs/
drug/inspect](http://www.phmsa.dot.gov/pipeline/regs/drug/inspect)***



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